REMARKS/ARGUMENTS

Reconsideration and allowance of this application are respectfully requested. Claim 24 has been cancelled hereby and claim 21 has been amended to include the previous subject matter of claim 24. Claims 21-23 are pending examination.

Claims 21-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin et al. (U.S. Pat. 5,355,302 "Martin") in view of Wilder (U.S. Pat. 5,408,417 "Wilder") and Banks et al. (U.S. Pat. 5,559,714 "Banks"). Applicant submits that all elements of the claimed combination are not present in the applied references.

Claim 21, as amended, recites, *inter alia*, "a song request routine for requesting at least one new song for download from the host server, wherein the at least one requested song is determined as a function of answers saved in a questionnaire response file in the memory."

According to the Office Action, Applicant failed to traverse the Examiner's official notice that "collaborative filtering" is well known in the art. Applicant submits, however, that whether or not collaborative filtering is known, the notion of "collaborative filtering" does not teach "a song request routine for requesting at least one new song for download from the host server."

Applicant points out that this is a routine that requests a song based on a determination made from the survey, which is different from a user requested song. None of the prior art of record, individually or in combination, teaches a routine that automatically (as opposed to at a user or operator's request) requests that a song be

downloaded. Therefore, all of the prior art is silent with respect to at least the noted claim element.

For at least this reason, Applicant respectfully submits that claim 21 is allowable over the prior art of record. Claims 22 and 23 should also be allowable based at least on their dependence from independent claim 21.

Further, Applicant traverses Examiner's contention that it was known in the art to provide rewards for answering questionnaires. Examiner has provided no evidence that this particular technique was known in this art, and further, the Tedesco patent, cited by Examiner in the previous application, was titled "Vending machine method and apparatus for encouraging participation in a marketing effort" and was generally directed at providing rewards for answering a questionaire on a vending machine. This would tend to suggest, to Applicant, since the Tedesco patent application was filed after Applicant's application, that it, in fact, was not well known in the art to provide rewards for answering questionairres, since a patent was granted to another along these very lines. Thus, absent some showing that it was known in the art to provide a reward for answering a questionairre, Applicant submits that claim 22 is allowable over the prior art of record, as the Office Action admits that "Martin Wilder and Banks fail to disclose a reward routine" for rewarding the customer based on a determination that the questionnaire was completed. Claim 23 should be additionally allowable based at least on its dependency from claim 22.

Additionally, while the Examiner has taken Official Notice of the fact that providing rewards for filing out questionnaires is well known, the Examiner has provided no evidence that providing a free product was well known, especially when that product is the only thing the machine "dispenses." The machine could just as easily give the customer a different reward (e.g. a discount). Therefore, Applicant submits that claim 23 is additionally and independently allowable over the prior art of record, because none of the prior art of record teaches or suggests "the reward routine gives the customer a free song selection for completing the questionnaire."

For at least the foregoing reasons, Applicant respectfully submits that the invention defined by claim 21 presented herein is not taught or suggested by the prior art of record. Dependent claims 22-23 should be patentable based at least on their dependency from claim 21. Dependent claims 22 and 23 should also be allowable over the prior art of record for the additional reasons presented herein. Thus, withdrawal of the rejections and allowance of newly added claims 21-23 in this application are earnestly solicited.

Respectfully submitted,
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